



Board of Control Minutes - January 2004

President Paul Dotson convened the regular meeting of the Board of Control on Friday, January 16, 2004 at 1:40 p.m. All Board members were present except Cynthia Elliott and Jeff Perkins. Also present were Commissioner Brigid DeVries, Assistant Commissioners Larry Boucher, Julian Tackett and Roland Williams, Director of Promotions and Media Relations Butch Cope, Fundraising Consultant Ken Tippet and Office Manager Darlene Koszenski. KHSAA legal counsel, Ted Martin and Michael Dailey, KDE liaison, were also present.

Lonnie Burgett was called on for the invocation.

President Dotson requested the record to show that sixteen out of eighteen Board members were present, and that ten votes were needed to pass any eligibility motions.

Eddie Saylor made a motion, seconded by Chuck Broughton, to approve the minutes of the November 19, 2003 regular meeting and the minutes of the December 18, 2003 special meeting. The motion passed unanimously.

Gary Dearborn made a motion that all bills of the Association for the period November 1, 2003 through December 31, 2003 be approved. Sally Haerberle seconded the motion, which passed unanimously.

Lonnie Burgett made a motion, seconded by Sally Haerberle, to go into Executive Session to discuss legal cases. The motion passed unanimously. Eddie Saylor made a motion, seconded by Chuck Broughton to come out of Executive Session. The motion passed unanimously. No action was taken during Executive Session.

The Board of Control then considered the following appeals in compliance with the KHSAA Due Process Procedure:

- Case #, Bylaw, H. O. Recommend
- Board Motion, Board Second, Vote, Status
- 808, 6, ELIGIBLE
- Uphold (Saylor), Taylor, 11-5, Eligible
- 810, 6, ELIGIBLE
- Remand (Dearborn), Haerberle, 15-0-1, Eligible
- 812, 6, ELIGIBLE
- Overtun (Dearborn), Deaton, 10-6, Ineligible-A
- 813, 6, ELIGIBLE
- Overtun (Dearborn), Parker, 11-4-1, Ineligible-B
- 814, 6, ELIGIBLE
- Overtun (Stewart), Hardin, 10-4-2, Ineligible-C
- 807, 6, INELIGIBLE
- Uphold (Saylor), Burgett, 15-1, Ineligible
- 809, 6(2), INELIGIBLE
- Uphold (McGinty), Burgett, 16-0, Ineligible
- 811, 6, INELIGIBLE
- Uphold (Haerberle), Parker, 16-0, Ineligible
- 815, 6, INELIGIBLE
- Uphold (Deaton), Haerberle, 16-0, Ineligible

A- Findings of Facts in Case #812

1. The KHSAA Board incorporates by reference the Findings of Fact in the Hearing Officer's recommended order.

Conclusions of Law

Based on the whole record, the KHSAA Board concludes as follows:

1. Student's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because they participated in varsity sports at sending High School and transferred to receiving High School.
2. Student's transfer does not meet a specific, enumerated exception to Bylaw 6.
3. There is insufficient evidence in the record to conclude that student's transfer merits a waiver of Bylaw 6 under the discretionary Due Process Procedure waiver provision. Student made a voluntary decision to live with their mother rather than their father. At the time of the transfer, the Cabinet for Families and Children was investigating allegations of emotional abuse and student's refusal to return to their father's home. Student could have, however, returned to their father's home. In fact, the Hearing Officer found that: "It is very difficult, based on the evidence of record, for the hearing officer to conclude that the altercation between student and their father was beyond the control of the parties." Under these circumstances, strict application of Bylaw 6 is not unfair to student and the circumstances creating the ineligibility are not clearly beyond the control of all the parties involved. Further, allowing a waiver under these circumstances would have a depreciative value on future enforcement of Bylaw 6 and set an undesirable precedent.

B- Findings of Facts in Case #813

1. The KHSAA Board incorporates by reference the Findings of Fact in the Hearing Officer's recommended order.

Conclusions of Law

Based on the whole record, the KHSAA Board concludes as follows:

1. Student's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because they participated in varsity sports at sending High School and transferred to receiving High School.
2. Student's transfer does not meet a specific, enumerated exception to Bylaw 6.
3. There is insufficient evidence in the record to conclude that student's transfer merits a waiver of Bylaw 6 under the discretionary Due Process Procedure waiver provision. Student and their mother and step-father (referred to as "parents") made a voluntary decision to attend sending High School for personal reasons. Student and their parents made this voluntary decision despite knowing that that they would

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have to find a way to transport them to sending High School, which was not in their home school district. Student and their parents later made a voluntary decision that transportation to sending High School was too difficult. Under these circumstances, strict application of Bylaw 6 is not unfair to them and the circumstances creating the ineligibility are not clearly beyond the control of all the parties involved. Further, allowing a waiver under these circumstances would have a depreciative value on future enforcement of Bylaw 6 and set an undesirable precedent.

C- Findings of Facts in Case #814

1. The KHSAA Board incorporates by reference the Findings of Fact in the Hearing Officer's recommended order.

Conclusions of Law

Based on the whole record, the KHSAA Board concludes as follows:

1. Student's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because they participated in varsity sports at sending High School and transferred to receiving High School.

2. Student's transfer does not meet a specific, enumerated exception to Bylaw 6.

3. There is insufficient evidence in the record to conclude that student's transfer merits a waiver of Bylaw 6 under the discretionary Due Process Procedure waiver provision. Student and their mother and step-father (referred to as "parents") made a voluntary decision to continue to attend sending High School after they moved in October of 2002. Further, student and their parents made a voluntary decision to continue to attend sending High School after their parents suffered health problems prior to the 2003-2004 school year. Student and their parents made these voluntary decisions despite knowing that that they would have to find a way to transport student to sending High School, which was not in their home school district. Student and their parents later made a voluntary decision that transportation to sending High School was too difficult. Lastly, there is insufficient evidence in the record to support a conclusion that the student and their parents had financial problems making it impossible for student to continue attending sending High School. Under these circumstances, strict application of Bylaw 6 is not unfair to them and the circumstances creating the ineligibility are not clearly beyond the control of all the parties involved. Further, allowing a waiver under these circumstances would have a depreciative value on future enforcement of Bylaw 6 and set an undesirable precedent.

President Dotson, **Executive Committee** Chairperson, asked the record to show that:

1. A Corporate Partner mid-year sales report was presented by Ken Tippett and Sheila Vaughn.
2. Number of contests for all sports was discussed.
3. Assistant Commissioner Larry Boucher received the post-season basketball officiating assignment requests as follows:

REGION #	DISTRICT PLAY	REGIN PLAY
1	IN	OUT
2	IN	OUT
3	IN	OUT
4	IN	OUT
5	IN	OUT
6	IN	OUT
7	IN	IN
8	IN	OUT
9	IN	IN
10	IN	IN
11	IN	IN
12	IN	OUT
13	IN	OUT
14	IN	IN
15	IN	IN
16	IN	IN

4. NFHS Football correspondence was reviewed.
5. Report from Jessamine County Schools was reviewed.
6. Comparative financial statement was reviewed.

President Dotson, Executive Committee Chairperson, then asked the record to show that the following motions were voted on:

 1. Jim Sexton made a motion, seconded by Chuck Broughton, to forward Annual Meeting Proposals #1-7-9-10-14-15-16-17-18 on to the Kentucky Board of Education for their consideration as approved by the Board. The motion passed unanimously.
 2. Jim Sexton made a motion, seconded by Eddie Saylor, to waive Bylaw 25 and Bylaw 26 on a one time basis for Soccer Coach Gary Williams, Christian Academy-Louisville, to coach 89 girls in the Kentucky Youth Soccer Organization for the 2003-2004 school year. The motion passed 15-1.

Jerry Taylor, **Football Committee** Chairperson, asked the Board to approve the following motions:

 1. Honor Letcher High School's request to add Football during the 2004 season. The motion was seconded by Eddie Saylor, and passed unanimously.
 2. Allow Rowan County High School to drop out of district play and return after the 2006 season. The motion was seconded by L.V. McGinty, and passed unanimously.
 3. Allow Evangel Christian to withdraw from 2004 competition. The motion was seconded by Jim Sexton, and passed unanimously.
 4. Allow Kentucky Country Day to take Evangel



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Christian's place, but allow no district play in 2004. The motion was seconded by Gary Dearborn, and passed unanimously.

5. The revision in the running clock rule and tie breaker clarification changes were tabled until the next regular Board meeting by a motion from Eddie Saylor, seconded by Bob Schneider, and passed unanimously.

Gary Dearborn, **Team Sports Committee**, asked the Board to approve the following motion:

1. Change the Volleyball format from double elimination to single elimination in district play, beginning with the 2004 fall season. The motion passed unanimously.

He then asked the record to show that the Jefferson County Softball Alignment discussion was removed from the agenda at the request of the Jefferson County Schools involved.

4. Eddie Saylor, **Basketball Committee** Chairperson, asked the record to show that:

1. A Basketball Coaches Association Status Report, Awards Presentation and Other Initiatives was presented by Mike Flynn.

2. The Basketball alignment was discussed.

3. Seeding issues were discussed.

L.V. McGinty, **Official's Review and Policy Committee** Chairperson, asked the Board to approve the following motion:

1. Begin an ongoing, rotating, four year review of Official's Fees, beginning with a \$5 increase per game in the sports of Football and Soccer, effective

the fall of 2004. The sports of Volleyball, Cross Country, Track and Swimming will be reviewed in 2004-2005; Basketball and Wrestling will be reviewed in 2005-2006; and Baseball and Softball will be reviewed in 2006-2007. The motion as seconded by Sally Haerberle and passed unanimously.

Let the record show that Chuck Broughton and Lonnie Burgett left the meeting.

Jim Sexton made a motion, seconded by Gary Dearborn, to sanction the Kentucky/Ohio All Star Basketball game. The motion failed 2-12.

President Dotson then called the Board's attention to miscellaneous items listed for their information only. 1) Set the date for Special Board Meeting in February to consider January appeals and December remands; 2) Review dates for the next special Board of Control Meeting, March 26 in conjunction with the Girls' State Basketball Tournament in Bowling Green, KY; 3) Miscellaneous Board and staff items.

It was decided a special called meeting was necessary, and has been scheduled for Monday, February 16, 2004 at 8:30 a.m. President Paul Dotson will not be able to attend, so Vice-President Jim Sexton will preside over the meeting.

There being no further business to come before the Board, Bob Schneider made a motion to adjourn. The motion was seconded by Stan Hardin, and passed unanimously. The meeting adjourned at 4:00 p.m.

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Paul Dotson
Bob Schneider